

VIA FACSIMILE

NOV 21 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Patent Application of :  
 John C. Montagna :  
 :  
 Conf. No.: 7567 : Group Art Unit: 3612  
 :  
 Appln. No.: 10/748,401 : Examiner: Joseph Pape  
 :  
 Filing Date: December 30, 2003 : Attorney Docket No.: D0447-42US  
 :  
 Title: METHOD OF MANUFACTURING COMPOSITE VEHICLE PANELS

SUBMISSION UNDER 37 CFR 1.312

A Notice of Allowance was issued in the above-identified application on November 30, 2006 (Paper No 20060819). This response was previously submitted on 11/17/06 directly to the Examiner's facsimile per his request and is being submitted officially of record via this facsimile. This response is being timely submitted prior to payment of the issue fee. Claims 14-18, 20, 22 and 30-33 are pending in the application and have been allowed.

An Amendment that placed the application in condition for allowance and a second Information Disclosure Statement (IDS) were filed on August 10, 2006 along with a Request to Continue Examination. The IDS was filed to cite prior art from the International Search Report, amongst other references that came to the applicants' attention, including the attached product brochure. The Examiner considered the IDS references along with issuing a Notice of Allowance.

Unfortunately, the undersigned recently discovered in reviewing the application prior to payment of the issue fee, that in preparing the IDS, one reference was inadvertently omitted from the SB/08a list attached to the last IDS. The reference is a product brochure from STK, LLC (which is, unfortunately, undated) that shows a commercial embodiment of a tonneau cover that is sold by that company, which company is also the assignee of some of the prior art already considered by the Examiner in the first and second IDS submissions and/or which lists the same inventor, e.g., U.S. Patents Nos. 6,558,826, 6,340,194 and 6,294,114 each of Muirhead.

Applicants attempted to find a date for product brochure, but none is listed other than the trademark date. "Procover," which is the trademark for the product shown in the brochure lists a first use in commerce on July 1, 1999 (see, for example,

<http://tess2.uspto.gov/bin/showfield?f=doc&state=aop47g.2.2>), so that it is possible that the

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product and brochure may date from as early as 1999 and constitute prior art, however, applicant is unable to verify the date of the brochure. While the the brochure may or may not constitute bona fide prior art and/or be cumulative in view of one or more of these patents, applicants would like the Examiner to review it for consideration since the patents do not show a photograph of product made using the technology in those patents in the same manner as the brochure and the brochure also includes some exemplary instructional use language.

Pursuant to the undersigned's conversation with the Examiner, if the Examiner believes that the brochure does not introduce any new issues after allowance, in view of the prior consideration of the patents noted above, applicants request that the Examiner consider the reference and initial the attached PTO/SB/08a form attached hereto such that the brochure is placed of record along with the other references submitted in the August 2006 IDS from which this was inadvertently omitted. If the Examiner feels that it introduces new matter requiring further search and/or analysis, the undersigned requests that the Examiner contact her such that a decision can be made in terms of payment of the issue fee prior to the November 30, 2006 due date. The undersigned apologizes for any inconvenience to the Examiner and thanks the Examiner for his courtesy in the telephone conversation of November 17, 2006 regarding this reference.

In view of the foregoing, applicant submits that the claims remain patentable over the references cited by the Examiner in support of rejection. Further, applicant respectfully requests consideration of the attached reference and a Supplemental Notice of Allowance including an initialed SB/08a form acknowledging consideration of the reference. If a fee is required for the consideration of this reference, the undersigned authorizes charging any fees required for consideration to our deposit account, 50-3541.

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Respectfully submitted,

**JOHN C. MONTAGNA**

11/21/06 By: 

(Date)

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LLC:llc: Enclosures SB/08a form; brochure (2 pages); fax cover sheet